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FILED
OCT 22 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 8865

UNITED STATES OF AMERICA Plaintiff V Andres NIEVES-Munoz Defendant	Magistrate Case No.: COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Sec., 1326 Attempted Entry After Being Ordered Deported/Removed

The undersigned complainant, being duly sworn, states:

On October 19, 2007, within the Southern District of California, the defendant Andres NIEVES-Munoz, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose, i.e., conscious desire, to enter the United States at the Calexico Port of Entry without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts which is incorporated herein by reference.

Leticia Casillas, CBP
Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS DATE 22ND DAY OF OCTOBER, 2007.

PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, Customs Border Protection Criminal Enforcement Officer Izabel Figueroa, declare under penalty of perjury, the following is true and correct:

On October 19, 2007, at approximately 12:20 A.M., Andres NIEVES Munoz arrived at the Calexico West Port of Entry in Calexico, California attempting to elude inspection by riding his bicycle between vehicle primary lanes. NIEVES Munoz entered the open gate riding his bicycle without stopping to be inspected by a United States Citizen Officer. United States Customs and Border Protection Officers Juan Rodriguez and Enrique Hernandez apprehended NIEVES Munoz and escorted him into secondary for further inspection.

At secondary inspection, routine record checks were conducted and revealed a possible fingerprint march with a person who had been previously deported. NIEVES Munoz was escorted to the Port Enforcement Team for further inspection. Records confirmed that NIEVES Munoz is an alien, a native and citizen of Mexico with no legal documents to enter into or be in the United State. NIEVES was advised of his Miranda warnings by Customs and Border Protection Enforcement Officer Leticia Casillas, to which he said he understood and would speak with out counsel present.

NIEVES Munoz stated that he was a citizen and national of Mexico with no legal entry documents to enter or reside or pass through the United States. NIEVES Munoz stated that he had not applied for or obtained the authorization of the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to enter the United States. NIEVES Munoz admitted to being previously deported by an Immigration Judge. NIEVES Munoz stated that he wanted to go to Monterrey, CA to be with his daughter.

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Executed on October 19, 2007, at approximately 1930hrs.

L Casillas
Leticia Casillas, CBP
Enforcement Officer

On the basis of the facts presented in the probable cause statement consisting of two pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on October 19, 2007 in the violation of Title 8, United States Code, § 1326.

Barbara L Major
HON. Barbara L. Major
United States Magistrate Judge

10/17/07 at 9:05 pm
Date and Time